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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,036	04/21/2005	Rene Grawe	WAS0692PUSA	8562
22045	7590	08/06/2008		
BROOKS KUSHMAN P.C. 1000 TOWN CENTER TWENTY-SECOND FLOOR SOUTHFIELD, MI 48075			EXAMINER SANDERS, KRIELLION ANTIONETTE	
			ART UNIT 1796	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/532,036

Applicant(s)

GRAWE ET AL.

Examiner

Kriellion A. Sanders

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/01/08.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 23-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Applicant's claim 11 as amended reads upon a process for jointing with sand. Claims 23-28 read upon a jointing composition suitable for use in the process of claim 11 wherein said polymers stabilized with polymers comprising ethylenically unsaturated mono- or dicarboxylic acids or anhydrides thereof, having an acid content of from 50-99 mol% are used as a mixture with sand.
4. The jointing compositions of claims 23-28 include sand although they are intended to be used a jointing composition with sand in the manner described in claim 11.
5. Applicant's arguments with respect to claims 11-29 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 11- 14 and 23-25 are rejected under 35 U.S.C. 103(a) as obvious over Weitzel, US Patent No. 6,605,663

Weitzel discloses a process for preparing polyvinyl alcohol-stabilized addition polymers based on (meth)acrylate monomers in the form of water-redispersible dispersion powders by means of a polymerization selected from the group consisting of free-radically initiated emulsion polymerization and suspension polymerization of at least one monomer selected from the group consisting of the esters of acrylic acid, esters of methacrylic acid and further monomers copolymerizable therewith, in the presence of at least one protective colloid from the group of polyvinyl alcohols.

Suitable monomers are selected from the group of the esters of acrylic acid and methacrylic acid and are esters of branched and unbranched alcohols having 1 to 15 carbon atoms. Preferred methacrylic esters and acrylic esters are methyl acrylate, methyl methacrylate, ethyl acrylate, ethyl methacrylate, propyl acrylate, propyl methacrylate, n-butyl acrylate, n-butyl methacrylate, and 2-ethylhexyl acrylate.

If desired, the methacrylic esters and acrylic esters can also be copolymerized with further monomers; for example, with one or more monomers selected from the group of the vinyl esters of branched or unbranched carboxylic acids having 1 to 12 carbon atoms, vinylaromatic compounds, vinyl halides, olefins and dienes. If these monomers are copolymerized, then it is

Art Unit: 1796

generally in an amount of from 10% to 70% by weight, based on the total weight of the monomers.

Preferred vinyl esters are vinyl acetate, vinyl propionate, vinyl butyrate, vinyl 2-ethylhexanoate, vinyl laurate, 1-methylvinyl acetate, vinyl pivalate and vinyl esters of .alpha.-branched monocarboxylic acids having 9 to 11 carbon atoms, an example being VeoVa9.RTM. or VeoVa10.RTM. (tradenames of Shell). Vinyl acetate is particularly preferred. Preferred vinylaromatic compounds are styrene, methylstyrene and vinyltoluene. A preferred vinyl halide is vinyl chloride. The preferred olefins are ethylene and propylene and the preferred dienes are 1,3-butadiene and isoprene.

If desired it is also possible to copolymerize from 0.05% to 10% by weight, based on the total weight of the monomer mixture, of auxiliary monomers. Examples of auxiliary monomers are ethylenically unsaturated mono- and dicarboxylic acids, preferably acrylic acid, methacrylic acid, fumaric acid and maleic acid; ethylenically unsaturated carboxamides and carbonitriles, preferably acrylamide and acrylonitrile; monoesters and diesters of fumaric acid and maleic acid such as the diethyl and diisopropyl esters and also maleic anhydride, ethylenically unsaturated sulfonic acids and their salts, preferably vinylsulfonic acid and 2-acrylamido-2-methylpropanesulfonic acid. Further examples are precrosslinking comonomers such as polyethylenically unsaturated comonomers, examples being divinyl adipate, diallyl maleate, allyl methacrylate and triallyl cyanurate, or postcrosslinking comonomers, examples being acrylamidoglycolic acid (AGA), methylacrylamidoglycolic acid methyl ester (MAGME), N-methylolacrylamide (NMA), N-methylolmethacrylamide, N-methylolallylcarbamate, alkyl ethers such as the isobutoxy ether or esters of N-methylolacrylamide, of N-

methyolmethacrylamide and of N-methylolallylcarbamate. Also suitable are epoxy-functional comonomers such as glycidyl methacrylate and glycidyl acrylate. Further examples are silicon-functional comonomers, such as acryloxypropyltri(alkoxy)-silanes and methacryloxypropyltri(alkoxy)silanes, vinyl-trialkoxysilanes and vinylmethyldialkoxysilanes.

In the working examples patentee describes a formulation constituent in conjunction with inorganic hydraulically setting binders in construction adhesives, plasters and renders, grouting compositions, floor-filling compositions, jointing mortars, and paints wherein:

A cement mixture was prepared by stirring to the following formulation:

Portland cement	82.5 g
Calcite (CaCO ₃) 10-40 mm	75 g
Quartz <u>sand</u> 200-500 mm	142 g
Dispersion powder	14.5 g
Water	85 g

Patentee does not indicate the step of sweeping the sand and jointing composition into joints, but this is an obvious step to any ordinary person familiar with laying paving stones, and such process steps are readily available in literature available from any home improvement store. Therefor, the sweeping step would have been obvious to one of ordinary skill in the art at the time of applicant's invention. See the patent at col. 2, line 15 through col. 4, line 32, col. 5, lines 4-50, col. 7, lines 33-45, col. 11, lines 35-65 and claims 1 and 7.

3. Claims 11, 15-19, 22-23 and 27-29 are rejected under 35 U.S.C. 103(a) as obvious over Weitzel et al , US Patent No. 6,262,167.
4. protective-colloid-stabilized polymer compositions in the form of their aqueous polymer dispersions or water-redispersible polymer powders, which comprise at least one film-forming base polymer and a protective colloid, wherein the protective colloid is a sulfonated condensation product made from unsaturated di- or polycarboxylic acids and from at least one compound selected from the class encompassing diols, polyols, diamines and polyamines. The protective colloids according to the invention are prepared from unsaturated polyesters or polyamides by adding hydrogensulfite to the double bonds. The unsaturated polyesters are obtained in a manner known from the literature by esterifying ethylenically unsaturated di- or polycarboxylic acids with saturated diols or polyols. Suitable carboxylic acid components are the ethylenically unsaturated aliphatic or aromatic di- or polycarboxylic acids or their reactive derivatives such as anhydrides, generally having from 4 to 10 carbon atoms and from 2 to 4 carboxylic acid functions or the carboxylic anhydride groups derived therefrom. The most preferred protective colloids are the sulfonated polyesters obtainable by polycondensing one or more compounds selected from the class encompassing maleic acid, maleic anhydride and fumaric acid or itaconic acid as the carboxylic acid component with one or more compounds selected from the class encompassing 1,2-ethanediol, 1,2-propanediol, 1,3-butanediol, 1,4-butanediol and 1,4-cyclohexanediol or 2,2'-dimethylpropanediol as the diol component, followed by hydrogensulfite addition to the double bonds. It is preferable for the degree of sulfonation to be from 50 to 100 mol %. water-redispersible polymer powders are prepared by polymerizing the base polymer by emulsion or suspension polymerization followed, if desired, by drying of the aqueous dispersion. Some or all of the

Art Unit: 1796

sulfonated polyesters and/or polyamides are added to the pulverulent base polymer prior to or during the polymerization or after the polymerization and/or prior to the drying of the aqueous dispersion obtainable in this way, or after the drying of the aqueous dispersion.

5. Patentee describes an example wherein the following components are used:

PZ-35 F Portland cement	900 g
Standard <u>sand</u>	2700 g
S-860 silicone antifoam (Wacker Chemie)	7.2 g
Dispersion powder	135 g
Water	405 g

6. Patentee does not indicate the step of sweeping the sand and jointing composition into joints, but this is an obvious step to any ordinary person familiar with laying paving stones, and such process steps are readily available in literature available from any home improvement store. Therefor, the sweeping step would have been obvious to one of ordinary skill in the art at the time of applicant's invention. See the patent at col. 2, line 58 through col. 5, line 40 and col. 6, lines 9 through 8 and col. 7, line 56 through col. 8, line 6. Also see col. 12, lines 35-42.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kriellion A. Sanders whose telephone number is 571-272-1122. The examiner can normally be reached on Monday through Thursday 8:30am-7:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kriellion A. Sanders/
Primary Examiner, Art Unit 1796

Kriellion A. Sanders
Primary Examiner
Art Unit 1796

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